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9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN FRANCISCO DIVISION**

12 IN RE FACEBOOK BIOMETRIC
13 INFORMATION PRIVACY LITIGATION

14
15 THIS DOCUMENT RELATES TO:

16 ALL ACTIONS
17 _____

18 FREDERICK WILLIAM GULLEN, on behalf
of himself and all others similarly situated,

19 Plaintiff,

20 v.

21 FACEBOOK, INC.,

22 Defendant.
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Master Docket No.: 3:15-CV-03747-JD

**[PROPOSED] ORDER GRANTING
DEFENDANT FACEBOOK, INC.'S
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL**

Date: January 25, 2018

Time: 10:00 a.m.

Location: Courtroom 11

Hon. James Donato

Case No. 3:16-cv-00937-JD

[PROPOSED] ORDER

Having considered defendant Facebook, Inc.'s ("Facebook") Administrative Motion to File Under Seal, the Declaration of Omry Yadan ("Yadan Declaration") and the Declaration of John Nadolenco submitted in support thereof ("Nadolenco Admin. Mot. Decl."), and all other matters presented, and having determined that compelling reasons exist for sealing this information, IT IS HEREBY ORDERED THAT:

Compelling reasons exist to file the following documents under seal because they constitute trade secret information for the below-listed reasons, *see Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006) (compelling reasons exist when "court files might have become a vehicle for improper purposes," including the release of trade secrets); and

Facebook's Administrative Motion to File Under Seal is GRANTED in its entirety.

The documents listed below shall remain under seal:

Document	Portions to be Sealed	Reasons for Sealing
Yadan Declaration in Support of Facebook's Motion for Summary Judgment ("Yadan Declaration").	Page 1, line 16; Page 2, lines 19-25; Page 3, lines 3-13; Page 3, lines 17-28; Page 4, lines 1-28; Page 5, lines 1-7; Page 5, lines 9-15; Page 5, lines 17-19; Page 6, lines 7-12; Page 6, lines 2-28; Page 7, lines 1-3; Page 7, lines 7-11; Or portions thereof.	Portions of paragraphs 4, 9, 11, 13-25, 28, and 31-33 of the Yadan Declaration contain information relating to the details of Facebook's network architecture and its facial recognition technology, which Facebook has designated as "Confidential" or "Highly Confidential – Attorneys' Eyes Only" pursuant to the Protective Order. Public release of this information would cause Facebook harm by providing competitors with insight into how Facebook designs its computer systems and its proprietary facial-recognition technology. Further, public disclosure of information related to Facebook's network architecture and how its architecture is used in

		connection with facial recognition could put Facebook and the people who use Facebook at increased risk of cyber attack by malicious actors. Yadan Decl. ¶ 34; Nadolenco Admin. Mot. Decl. ¶ 11.
Exhibit 2 to the Yadan Declaration (FBBIPA_00044567).	Entire document	Exhibit 2 to the Yadan Declaration contains information that identifies non-party Facebook users and their activities on Facebook in connection with GULLEN-000001 and GULLEN-000002. Facebook considers this information about its users to be non-public and takes steps to prevent the information from becoming publicly available or available to people outside of Facebook. Yadan Decl. ¶¶ 28-29; Nadolenco Admin. Mot. Decl. ¶ 12.
Exhibit 3 to Yadan the Yadan Declaration (FBBIPA_00001456).	Entire document	Exhibit 3 to the Yadan Declaration contains confidential information related to both the network architecture of Facebook's computer systems and the way in which those systems interact with and support Facebook's facial-recognition technology. Public release of this information would cause Facebook harm by providing competitors with insight into how Facebook designs its computer systems and its proprietary facial-recognition technology. Yadan Decl. ¶¶ 34-35; Nadolenco Admin. Mot. Decl. ¶ 11.
Exhibit 4 to the Yadan Declaration	Entire document	Exhibit 4 to the Yadan Declaration describes confidential information

(FBBIPA_00001456).		regarding research and development work being performed by Facebook's Applied Machine Learning ("AML") team. Public release of this information would cause Facebook harm by providing competitors with insight into how Facebook designs its computer systems and its proprietary facial-recognition technology. Yadan Decl. ¶¶ 34-35; Nadolenco Admin. Mot. Decl. ¶ 11.
Exhibit 5 to the Yadan Declaration (FBBIPA_00027112).	Entire document	Exhibit 5 to the Yadan Declaration references proprietary and confidential details about Facebook's image processing system. Public release of this information would cause Facebook harm by providing competitors with insight into how Facebook designs its computer systems and its proprietary facial-recognition technology. Yadan Decl. ¶¶ 34-35; Nadolenco Admin. Mot. Decl. ¶ 11.
Exhibit 6 to the Yadan Declaration (FBBIPA_00001756).	Entire document	Exhibit 6 to the Yadan Declaration references proprietary and confidential details about Facebook's photo tagging system. Public release of this information would cause Facebook harm by providing competitors with insight into how Facebook designs its computer systems and its proprietary facial-recognition technology. Yadan Decl. ¶¶ 34-35; Nadolenco Admin. Mot. Decl. ¶ 11.
October 18, 2016 Deposition Transcript of Yaniv Taigman (Exhibit	Page 128, lines 11-14; Page 130, line 12 – page 133, line 25;	Exhibit 1 to the Nadolenco MSJ Declaration contains excerpts from the October 18, 2016 deposition

1 to the Declaration of John Nadolenco in Support of Facebook's Motion for Summary Judgment ("Nadolenco MSJ Decl.")	Page 137, lines 21 – page 140, line 25; Page 159, line 1 – page 164, line 25; Page 165, line 2 – page 167, line 25; Page 171, lines 14 – page 172, line 25; Page 239, lines 1-25; Page 273, line 1 – page 274, line 11; Page 281, lines 2-25; Page 285, lines 1-25; Or portions thereof	testimony of Facebook's employee Yaniv Taigman. Mr. Taigman testified in detail about Facebook's network architecture, how Facebook's proprietary facial-recognition technology works, and the way in which Facebook's computer systems interact with and support Facebook's facial recognition technology. These portions of Mr. Taigman's deposition have been designated by Facebook as "Highly Confidential – Attorneys' Eyes Only" pursuant to the Protective Order. Public release of this information would cause Facebook harm by providing competitors with insight into how Facebook designs its computer systems and its proprietary facial-recognition technology. Yadan Decl. ¶ 34; Nadolenco Admin. Mot. Decl. ¶¶ 14-15.
October 26, 2017 Deposition Transcript of Omry Yadan (Exhibit 2 to Nadolenco MSJ Decl.)	Page 84, lines 11-25; Page 98, line 1 – page 99, line 25; Page 117, lines 1-15; Page 118, lines 12-13; Page 121, line 22 – page 122, line 3; Page 122, lines 11-25; Page 135, line 4; Page 135, lines 15-25; Page 149, lines 5-25; Page 160, lines 1-25; Page 180, lines 1-25; Or portions thereof.	Exhibit 2 to the Nadolenco Declaration contains excerpts from the October 26, 2017 deposition testimony of Facebook's employee Omry Yadan. Mr. Yadan testified in detail about Facebook's network architecture, how Facebook's proprietary facial-recognition technology works, and the way in which Facebook's computer systems interact with and support Facebook's facial recognition technology. These portions of Mr. Yadan's deposition have been designated by Facebook as "Highly Confidential – Attorneys' Eyes Only" pursuant to the Protective Order. Public release of this

		information would cause Facebook harm by providing competitors with insight into how Facebook designs its computer systems and its proprietary facial-recognition technology. Yadan Decl. ¶ 34; Nadolenco Admin. Mot. Decl. ¶¶ 14-15.
Memorandum in Support of Motion for Summary Judgment.	Page 3, line 20; Page 4, lines 2-13; Page 4, lines 14-18; Page 4, lines 19-22; Page 4, lines 23-27; Page 5, lines 1-4; Page 5, lines 6-16; Page 10, lines 12-24; Or portions thereof.	Pages 3-5 and 10 of Facebook's Memorandum of Law in Support of its Motion for Summary Judgment reference or discuss the information contained in the Yadan Declaration, the exhibits Facebook seeks to seal, and the confidential deposition testimony of Omry Yadan and Yaniv Taigman. Public release of this information would cause Facebook harm by providing competitors with insight into how Facebook designs its computer systems and its proprietary facial-recognition technology. Yadan Decl. ¶ 34; Nadolenco Admin. Mot. Decl. ¶¶ 18-19.
Supplemental Brief in Support of Motion for Summary Judgment in <i>Gullen v. Facebook, Inc.</i> , No. 3:16-CV-00937-JD	Page 2, lines 1-3; Page 2, lines 4-5; Page 2, lines 7-10; Page 2, lines 17-18; Page 2, lines 21-22; Page 4, lines 19-25; Page 5, lines 11-16; Or portions thereof.	Pages 2, 4, and 5 of Facebook's Supplemental Brief in Support of Motion for Summary Judgment in <i>Gullen v. Facebook, Inc.</i> , No. 3:16-CV-00937-JD reference or discuss the information contained in the Yadan Declaration, the exhibits Facebook seeks to seal, the confidential deposition testimony of Omry Yadan and Yaniv Taigman, and material designated by plaintiffs as "Confidential.". Public release of this information would cause Facebook harm by providing competitors with insight into how

		Facebook designs its computer systems and its proprietary facial-recognition technology. Yadan Decl. ¶ 34; Nadolenco Admin. Mot. Decl. ¶¶ 18-19.
Deposition testimony of plaintiff Frederick Gullen dated October 25, 2017 (Exhibit 7 to Nadolenco Decl.)	Entire document	Deposition testimony designated by plaintiffs as “Confidential.” Nadolenco Decl. ¶¶ 21, 22.

IT IS SO ORDERED.

DATED: _____

Honorable James Donato
United States District Judge